

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 271 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SARPANCH, NAGAR PANCHAYAT, BANTWA, DIST. JUNAGADH

Versus

KISHANDCHAND N. & ANR

Appearance:

MR ND NANAVATI for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/07/97

ORAL JUDGEMENT

1. Challenge is made by the petitioner, Sarpanch, Nagar Panchayat, Bantwa, Dist. Junagadh, to the order of the Labour Court, Junagadh passed in Recovery Applications No.91/91 to 94/91 on 9-9-1993.

2. The respondents herein, filed applications under sec.33(C)(2) of the Industrial Disputes Act, 1947 before the Labour Court, Junagadh, and prayer had been made for

computation of the difference of salary payable to them between 1-1-1986 and 31-3-1991. The claim of the respondents in those applications were that though the revision of the pay scales have been made by the Government under the Gujarat Public Service Salary Revision Rules, 1987, effective from 1-1-1986, but they were not given the benefit of the revised pay scale. The respondents filed three separate applications, but the petitioner has filed only one Special Civil Application. I do not consider it appropriate to dismiss this Special Civil Application on this ground. The claim made by the respondents found favour with the Labour Court, and hence, this Special Civil Application.

3. The counsel for the petitioner contended that under sec.33(C)(2) of the Industrial Disputes Act, 1947, the Labour Court could not have gone into the question of entitlement of the respondents for the revised pay scale. The jurisdiction of the Labour Court under sec.33(C)(2) of the Act, 1947, is in the nature of executing court. Only where there are pre-existing rights of the workmen then only the recovery applications could have been filed.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

5. The learned counsel for the petitioner has not disputed that the pay scale which has been prescribed for the employees of the Government are applicable to the corresponding posts in the District Panchayats, Nagar Panchayats and Gram Panchayats. In the matter of the pay scale and other service conditions, Their Lordships of the Hon'ble Supreme Court in the case of State of Gujarat vs. Ramanlal Keshavlal reported in AIR 1984 SC 161 have decided that the servants of the District Panchayats, Nagar Panchayats and Gram Panchayats are the civil servants. The counsel for the petitioner has tried to draw a distinction that the ratio of this case is applicable to those employees of the District Panchayats, Nagar Panchayats and Gram Panchayat which are converted from the Municipalities and if the employees are allocated employees to such District Panchayats, Nagar Panchayats and Gram Panchayats. However, I do not consider it necessary to go on this question, but in view of the fact that parity is maintained in the matter of the pay scale and it is not the case of the petitioner that the revised pay scales are not applicable to the employees of the District Panchayats, Nagar Panchayats and Gram Panchayats, the Labour Court has not committed

any illegality in passing the order impugned in this Special Civil Application in favour of the respondents.

6. This writ petition has been filed by the petitioner under Article 226 of the Constitution of India. The revision of the pay scales are being made for the reason that there is an escalation in the price of the essential commodities and the rise of the prices in many other articles. To meet the escalation and rise in the prices, the revision of pay scales are being made. If this is the object of the revision of the pay scale, I fail to see any justification in the contention of the counsel for the petitioner that the benefits of the revision of pay scale could not have been extended to the employees of the petitioner. In such matters, the Nagar Panchayat should have acted as a model employer rather than to have a technical approach in the matter of extension of the benefits of the revision of the pay scale to its employees. It is not the case where this Court will issue a writ of certiorari or mandamus or any other appropriate writ, order or direction as a matter of course or right. Sitting under Article 226 of the Constitution, this Court will decline to interfere in the matter even if there is some substance in the plea of the lack of jurisdiction of Labour Court raised by the petitioner if no prejudice is caused to the petitioner in the matter. I do not find that any prejudice is caused to the petitioner by the order of the Labour Court. The employees, the respondents herein, only claims for the benefit of the revision of the pay scale which has been given to the Government employees and opposition to such a claim by the petitioner is absolutely perverse approach to the matter.

7. Similarly, under Article 227 of the Constitution, this Court cannot assume unlimited prerogative to correct all species of hardships or wrong decisions. The exercise of power under Article 227 of the Constitution must be restricted to cases of grave dereliction of duties and flagrant abuse of fundamental principles of law or justice where grave injustice would be done unless this Court interferes. In the case in hand, substantial justice has been done by the Labour Court and the claim of the respondents for the revision of the pay scale has been accepted. It is not the case where grave injustice would be done to the petitioner in case this Court declines to interfere in the matter.

8. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands

vacated.

zgs/-